



# Procedures

11-17-2008

## **What is this topic?**

The purpose of this work group is to review the various development procedures and review processes that are directly or indirectly impacted by the Zoning Code. The procedures work group seeks input from the public as well as “frequent users” of the system to provide suggestions for improvement. Suggestions should outline a problem or inefficiency, and provide a solution that may make the process simpler or easier to understand and navigate. In essence, we want to work smarter.

## **How do current approaches impact development?**

Presently, the general public who are unfamiliar with the various development procedures feel that they are at a relative disadvantage compared to a “seasoned veteran” who has more experience working with our Zoning Code. The processes should be open and easy to understand so that everyone is easily able to participate. More strict rules for public notification and a more convenient hearing schedule that potentially includes evening hours should be considered in order to facilitate public participation.

## **What issues with the current approach should TransForm Baltimore help address?**

1. There is concern over ensuring that there is public access to plans and materials submitted in conjunction with a BMZA application prior to the hearing. At times, changes to an application are introduced at the hearing that may result in a different response from community organizations and adjacent property owners that may have submitted a letter in support of the original proposal. How can this be resolved? When alterations or changes are made to a zoning request, what is the procedure for notifying the community?
2. How are postponements handled? What right does the public have to be granted a postponement if the developer has not provided critical information?
3. Is there a way to provide more training for the Zoning Administrator’s Office? Training would be valuable to increase their capacity and accuracy, both in providing guidance to citizens and to apply the Code definitively to avoid unnecessary appeals that the BMZA either does not need to review or that the BMZA does not have the authority to grant.
4. What is the difference between a conditional use and a variance? Are there any posting or notification differences? Sometimes it seems that the “burden of proof” shifts such



that in some cases the applicant must demonstrate that the required findings are met, while in other cases the protestants must demonstrate that the required findings are not met. Does this change depending on the applicant's request? Are there circumstances when this is/isn't appropriate, or where the answer may be different? What weight is given to protestants (opposition)? Do the economics involved in a project affect the BMZA's decision? Sometimes it seems that preference is given to the developer unless representatives from the community show up to protest the application. This gives developers the incentive to limit knowledge of a project within the community (no notice to adjacent property owners, poor posting location or lack of posting, etc.) so that it appears there are no protests and then the application is approved.

5. How can it be verified that a public notice sign is posted properly and in the correct time period? Could part of the application fee be used to cover the costs of the City printing and posting the public notice sign to ensure that it is done properly? Could the signs be standardized and clearly indicate the actions before the BMZA such as a conversion of use, conditional use, variance of a rear yard setbacks, etc.?
6. Could the BMZA provide reference manuals on the Zoning Code or other explanatory aids to interested people?
7. Could the City incorporate provisions of the American Planning Association's *Growing Smart – A Legislative Guidebook and Model Zoning and Planning Act* into the new Zoning Code?
8. Could the processes for Planned Unit Developments (PUDs) be examined? PUDs are often approved long before development begins and then frequently amended – generally to increase density – and then more amendments may follow. Can there be a time limit imposed so that the PUD owner(s) need to start over if they don't begin in a timely manner? Sometimes, numerous amendments are made over time that significantly alter the original master plan but the community has a limited ability to oversee these amendments and determine the overall impact of the amendments.

**What proposed approaches should be considered during the TransForm Baltimore process?**

1. Standards should be adopted for the determination of whether an application is complete. An appeal should not be scheduled until the application is determined complete in a pre-submission review of the application materials. The determination of an application's completeness is currently being made by the Zoning Office, but the BMZA may be better suited to applying these standards.
2. Consider adopting a filing completion date in order for items to be scheduled for a BMZA hearing, such that all materials to be considered by the Board would be required to be entered into the case file no later than that date (perhaps 7-10 days prior to the hearing). This would give an opportunity for concerned parties or complainants to review the file



and access to the same information to be discussed at the hearing. Perhaps an electronic application could help with making this information available online, or in other ways that would not require appearing in-person at the BMZA office to review the physical case file. Digital format application forms and block plats would assist in this effort, as well as simplify the process even if a filing completion date is not established.

3. If a filing completion date is adopted, the BMZA should also establish a policy concerning changes to proposed cases, such as requiring the rescheduling of any hearing where changes to the application were made after the hearing is scheduled with new public notice of the rescheduling required. Reductions in scope should be permitted beyond the filing completion date without requiring postponement.
4. Considering the potential for changes in drawings, as well as the potential for the BMZA to apply conditions for approval, architectural drawings approved by the BMZA should require some form of authentication. For example, perhaps two copies of the revised/final plans could be stamped as approved by the Board similar to the procedure currently used by the Site Plan Review Committee (SPRC). This way concerned individuals as well as City enforcement staff would be better able to determine which physical changes to, or uses on, a property were in fact authorized by the Board as indicated on the approved drawings as part of the permit application process.
5. A policy concerning commentary via e-mail should be established. A practical cut-off time and date should be established, such that after that time and date, any commentary submitted to the Board for a specific case cannot be guaranteed to be included in the case file at the hearing. Alternately, a reply acknowledging receipt of e-mail commentary could suffice. The policy could also dictate whether a simple e-mail message is sufficient, or if some form of authentication should be required, such as a digital signature, or a scanned image of a manually signed letter.
6. Consider creating a “helpful hints” section as a non-regulatory appendix to the Zoning Code that explains how the BMZA process works, gives examples of a typical case by type (variance vs. conditional use), and outlines how the process works from the points of view of both the appellant and protestant. Alternately, this could be published as a reference handout produced by the Board, and published online. Perhaps a “Frequently Asked Questions” (FAQ) section could be incorporated. Otherwise, perhaps a community analog to the Developer’s Guidebook could be produced that would detail the various development processes from the point of view of the public.
7. The public notice signage required for a BMZA hearing could incorporate the use of a color-coded header or similar technique to aid in showing the category of appeal. For example, variance requests would have one color header, and conditional uses would have another color header. Alternately, or in addition, a letter/number code (e.g. as per Howard County, combination of both) could be used rather than the current appeal number which is often difficult to remember. Format of signage should be standardized



- and provided to applicants electronically, similar to current procedures for Planning Commission and City Council posting.
8. Consider offering an option for the City to produce the required posting signs, and have the appellant post the property. Presently, the applicants can either make the sign themselves (often with substandard results that end up in postponement), or they can pay a third-party contractor or sign company to produce the sign. By offering this as an optional City service, appellants would retain the choice of making the sign themselves, or they can purchase a sign that is guaranteed to be correct.
  9. In the event that a case cannot be heard due to incorrect posting, the public should be notified prior to the day of the hearing that the case will not be heard. For example, if a revised docket or cancellation notice was published online, and/or through the existing e-mail distribution list. Alternately, the docket could include a record of scheduling with lists of cases to be scheduled, those scheduled, those unscheduled, such as in Howard County.
  10. Consider posting cases to the BMZA's webpage as the applications are received versus when the appeal is scheduled for a hearing. Perhaps a case abstract and contact information for the appellant could be included. Subsequently, the BMZA's decision and the disposition of the case could be published online (e.g. as per Harford County). This would allow for more time for communities to identify cases of interest, do their research, and contact the appellant to request more information if necessary. After the case, interested parties can access the results of the case without needing to contact the BMZA's staff.
  11. The BMZA has established a set of rules for how they conduct business, and historically changes to these rules have been rare. The Board should consider periodic review and approval of the Board's Rules (regardless of if changes are made) to ensure that these rules are kept up-to-date. The Board should also consider publishing potential changes to their rules in some form of public notice, and receive comments from the public concerning those changes. While the Board currently retains the sole authority to alter their rules (with the exception of a City Council override), accepting public comments may help the Board in making any changes.
  12. Consider requiring expiration dates for Planned Unit Developments (PUDs) and potentially a mandatory start date for the implementation of the PUD, or it will be invalidated for lack of execution. Consider adding a minimum time period between amendments to the PUD, e.g. not sooner than one year from passage or the last effective date of approval.
  13. Extend public notice from 10 days to 30 days and require written notification of property owners within a certain distance of the subject property via first class mail with a copy of notification letters provided to the BMZA prior to hearing for the case file.
  14. Consider extending the appeal time from 10 days to 30 days also.



Procedures Work Group  
Zoning  
Recommendations

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15. Determine purpose of one council meeting delay between 2<sup>nd</sup> and 3<sup>rd</sup> reader on ordinance for rezoning since it occurs after the committee hearing on a bill and eliminate if possible.
16. Create a streamlined process for administrative adjustments for minor issues as long as public notification is provided for and opposition would permit for a full hearing in front of the BMZA.
17. Create a suggested time frame for BMZA decisions to be issued.



## **Suggested BMZA Procedures Flow Chart:**



